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AN ACT

RELATING TO HEALTH CARE FOR INDIGENTS; REVISING REIMBURSEMENT  
CRITERIA; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-5-3 NMSA 1978 (being Laws 1965, Chapter 234,  
Section 3, as amended) is amended to read:

"27-5-3. PUBLIC ASSISTANCE PROVISIONS.--

A. A hospital shall not be paid from the fund under the Indigent  
Hospital and County Health Care Act for costs of an indigent patient for services that  
have been determined by the department to be eligible for medicaid reimbursement.  
However, nothing in the Indigent Hospital and County Health Care Act shall be  
construed to prevent the board from transferring money from the fund to the sole  
community provider fund or the county-supported medicaid fund for support of the  
state medicaid program.

B. No action for collection of claims under the Indigent Hospital and  
County Health Care Act shall be allowed against an indigent patient who is medicaid  
eligible for medicaid covered services, nor shall action be allowed against the person  
who is legally responsible for the care of the indigent patient during the time that  
person is medicaid eligible."

Section 2. Section 27-5-4 NMSA 1978 (being Laws 1965, Chapter 234,  
Section 4, as amended by Laws 2001, Chapter 30, Section 1, Laws 2001, Chapter  
272, Section 1 and also by Laws 2001, Chapter 280, Section 1) is amended to read:

"27-5-4. DEFINITIONS.--As used in the Indigent Hospital and County Health  
Care Act:

A. "ambulance provider" or "ambulance service" means a specialized  
carrier based within the state authorized under provisions and subject to limitations as  
provided in individual carrier certificates issued by the public regulation commission to  
transport persons alive, dead or dying en route by means of ambulance service. The

1 rates and charges established by public regulation commission tariff shall govern as to  
2 allowable cost. Also included are air ambulance services approved by the board. The  
3 air ambulance service charges shall be filed and approved pursuant to Subsection D  
4 of Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

5 B. "board" means a county indigent hospital and county health care  
6 board;

7 C. "indigent patient" means a person to whom an ambulance service, a  
8 hospital or a health care provider has provided medical care, ambulance  
9 transportation or health care services and who can normally support himself and his  
10 dependents on present income and liquid assets available to him but, taking into  
11 consideration this income and those assets and his requirement for other necessities  
12 of life for himself and his dependents, is unable to pay the cost of the ambulance  
13 transportation or medical care administered or both. If provided by resolution of a  
14 board, it shall not include any person whose annual income together with his spouse's  
15 annual income totals an amount that is fifty percent greater than the per capita  
16 personal income for New Mexico as shown for the most recent year available in the  
17 survey of current business published by the United States department of commerce.  
18 Every board that has a balance remaining in the fund at the end of a given fiscal year  
19 shall consider and may adopt at the first meeting of the succeeding fiscal year a  
20 resolution increasing the standard for indigency. The term "indigent patient" includes  
21 a minor who has received ambulance transportation or medical care or both and  
22 whose parent or the person having custody of that minor would qualify as an indigent  
23 patient if transported by ambulance, admitted to a hospital for care or treated by a  
24 health care provider;

25 D. "hospital" means a general or limited hospital licensed by the  
department of health, whether nonprofit or owned by a political subdivision, and may  
include by resolution of a board the following health facilities if licensed or, in the case  
of out-of-state hospitals, approved, by the department of health:

(1) for-profit hospitals;

1 (2) state-owned hospitals; or SB  
2 (3) licensed out-of-state hospitals where treatment provided is B  
3 necessary for the proper care of an indigent patient when that care is not available in 5  
4 an in-state hospital; 2  
5 E. "cost" means all allowable costs of providing health care services, to 4  
6 the extent determined by resolution of a board, for an indigent patient. Allowable costs P  
7 shall be based on medicaid fee-for-service reimbursement rates for hospitals, licensed a  
8 medical doctors and osteopathic physicians; 9  
9 F. "fund" means a county indigent hospital claims fund; e  
10 G. "medicaid eligible" means a person who is eligible for medical 3  
11 assistance from the department;  
12 H. "county" means a county except a class A county with a county  
13 hospital operated and maintained pursuant to a lease with a state educational  
14 institution named in Article 12, Section 11 of the constitution of New Mexico;  
15 I. "department" means the human services department;  
16 J. "sole community provider hospital" means:  
17 (1) a hospital that is a sole community provider hospital under  
18 the provisions of the federal medicare guidelines; or  
19 (2) an acute care general hospital licensed by the department  
20 of health that is qualified, pursuant to rules adopted by the state agency primarily  
21 responsible for the medicaid program, to receive distributions from the sole community  
22 provider fund;  
23 K. "drug rehabilitation center" means an agency of local government, a  
24 state agency, a private nonprofit entity or combination thereof that operates drug  
25 abuse rehabilitation programs that meet the standards and requirements set by the  
department of health;  
L. "alcohol rehabilitation center" means an agency of local  
government, a state agency, a private nonprofit entity or combination thereof that  
operates alcohol abuse rehabilitation programs that meet the standards set by the

1 department of health;

2 M. "mental health center" means a not-for-profit center that provides  
3 outpatient mental health services that meet the standards set by the department of  
4 health;

5 N. "health care provider" means:

- 6 (1) a nursing home;
- 7 (2) an in-state home health agency;
- 8 (3) an in-state licensed hospice;
- 9 (4) a community-based health program operated by a political  
10 subdivision of the state or other nonprofit health organization that provides prenatal  
11 care delivered by New Mexico licensed, certified or registered health care  
12 practitioners;

13 (5) a community-based health program operated by a political  
14 subdivision of the state or other nonprofit health care organization that provides  
15 primary care delivered by New Mexico licensed, certified or registered health care  
16 practitioners;

- 17 (6) a drug rehabilitation center;
- 18 (7) an alcohol rehabilitation center;
- 19 (8) a mental health center; or
- 20 (9) a licensed medical doctor, osteopathic physician, dentist,  
21 optometrist or expanded practice nurse when providing emergency services, as  
22 determined by the board, in a hospital to an indigent patient;

23 O. "health care services" means treatment and services designed to  
24 promote improved health in the county indigent population, including primary care,  
25 prenatal care, dental care, provision of prescription drugs, preventive care or health  
26 outreach services, to the extent determined by resolution of the board;

27 P. "planning" means the development of a countywide or multicounty  
28 health plan to improve and fund health services in the county based on the county's  
29 needs assessment and inventory of existing services and resources and that

1 demonstrates coordination between the county and state and local health planning  
2 efforts; and

3 Q. "commission" means the New Mexico health policy  
4 commission."

5 Section 3. Section 27-5-6 NMSA 1978 (being Laws 1965, Chapter 234,  
6 Section 6, as amended) is amended to read:

7 "27-5-6. POWERS AND DUTIES OF THE BOARD.--The board:

8 A. shall administer claims pursuant to the provisions of the Indigent  
9 Hospital and County Health Care Act;

10 B. shall prepare and submit a budget to the board of county  
11 commissioners for the amount needed to defray claims made upon the fund and to  
12 pay costs of administration of the Indigent Hospital and County Health Care Act and  
13 costs of development of a countywide or multicounty health plan. The combined costs  
14 of administration and planning shall not exceed the following percentages of revenues  
15 based on the previous fiscal year revenues for a fund that has existed for at least one  
16 fiscal year or based on projected revenues for the year being budgeted for a fund that  
17 has existed for less than one fiscal year. The percentage of the revenues in the fund  
18 that may be used for such combined administrative and planning costs is equal to the  
19 sum of the following:

20 (1) ten percent of the amount of the revenues in the fund not  
21 over five hundred thousand dollars (\$500,000);

22 (2) eight percent of the amount of the revenues in the fund  
23 over five hundred thousand dollars (\$500,000) but not over one million dollars  
24 (\$1,000,000); and

25 (3) four and one-half percent of the amount of the revenues in  
the fund over one million dollars (\$1,000,000);

C. shall make rules necessary to carry out the provisions of the  
Indigent Hospital and County Health Care Act; provided that the standards for eligibility  
and allowable costs for county indigent patients shall be no more restrictive than the

1 standards for eligibility and allowable costs prior to December 31, 1992;

2 D. shall set criteria and cost limitations for medical care furnished by

3 licensed out-of-state hospitals, ambulance services or health care providers;

4 E. shall cooperate with appropriate state agencies to use available

5 funds efficiently and to make health care more available;

6 F. shall cooperate with the department in making an investigation to

7 determine the validity of claims made upon the fund for an indigent patient;

8 G. may accept contributions or other county revenues, which shall be

9 deposited in the fund;

10 H. may hire personnel to carry out the provisions of the Indigent

11 Hospital and County Health Care Act;

12 I. shall review all claims presented by a hospital, ambulance service or

13 health care provider to determine compliance with the rules adopted by the board or

14 with the provisions of the Indigent Hospital and County Health Care Act; determine

15 whether the patient for whom the claim is made is an indigent patient; and determine

16 the allowable medical, ambulance service or health care services costs; provided that

17 the burden of proof of any claim shall be upon the hospital, ambulance service or

18 health care provider;

19 J. shall state in writing the reason for rejecting or disapproving any

20 claim and shall notify the submitting hospital, ambulance service or health care

21 provider of the decision within sixty days after eligibility for claim payment has been

22 determined;

23 K. shall pay all claims that are not matched with federal funds under

24 the state medicaid program and that have been approved by the board from the fund

25 and shall make payment within thirty days after approval of a claim by the board;

L. shall determine by county ordinance the types of health care providers that will be eligible to submit claims under the Indigent Hospital and County Health Care Act;

M. shall review, verify and approve all medicaid sole community

1 provider hospital payment requests in accordance with rules adopted by the board  
2 prior to their submittal by the hospital to the department for payment but no later than  
3 January 1 of each year;

4 N. shall transfer to the state by the last day of March, June, September  
5 and December of each year an amount equal to one-fourth of the county's payment  
6 for support of sole community provider payments as calculated by the department for  
7 that county for the current fiscal year. This money shall be deposited in the sole  
8 community provider fund;

9 O. shall, in carrying out the provisions of the Indigent Hospital and  
10 County Health Care Act, comply with the standards of the federal Health Insurance  
11 Portability and Accountability Act of 1996;

12 P. may provide for the transfer of money from the fund to the county-  
13 supported medicaid fund to meet the requirements of the Statewide Health Care Act;  
14 and

15 Q. may contract with ambulance providers, hospitals or health care  
16 providers for the provision of health care services."

17 Section 4. Section 27-5-11 NMSA 1978 (being Laws 1965, Chapter 234,  
18 Section 12, as amended) is amended to read:

19 "27-5-11. HOSPITALS AND AMBULANCE SERVICES--HEALTH CARE  
20 PROVIDERS--REQUIRED TO FILE DATA--SOLE COMMUNITY PROVIDER HOSPITAL  
21 DUTIES.--

22 A. An ambulance service, hospital or health care provider in New  
23 Mexico or licensed out-of-state hospital, prior to the filing of a claim with the board,  
24 shall have placed on file with the board:

25 (1) current data, statistics, schedules and information deemed  
26 necessary by the board to determine the cost for all patients in that hospital or cared  
27 for by that health care provider or tariff rates or charges of an ambulance service;

(2) proof that the hospital, ambulance service or health care  
28 provider is licensed under the laws of this state or the state in which the hospital

1 operates; and

2 (3) other information or data deemed necessary by the board.

3 B. A sole community provider hospital requesting or receiving medicaid  
4 sole community provider hospital payments shall:

5 (1) accept indigent patients and request reimbursement for  
6 those patients through the appropriate county indigent fund. The responsible county  
7 shall approve requests meeting its eligibility standards and notify the hospital of such  
8 approval;

9 (2) confirm the amount of payment authorized by each county  
10 for indigent patients, to that county for the previous fiscal year, by September 30 of  
11 each calendar year;

12 (3) negotiate with each county the amount of indigent hospital  
13 payments anticipated for the following fiscal year by December 31 of each year; and

14 (4) provide to the department prior to January 15 of each year  
15 the amount of the authorized indigent hospital payments anticipated for the following  
16 fiscal year after an agreement has been reached on the amount with each responsible  
17 county and such other related information as the department may request."

18 Section 5. Section 27-5-12.2 NMSA 1978 (being Laws 1993, Chapter 321,  
19 Section 15) is amended to read:

20 "27-5-12.2. DUTIES OF THE COUNTY--SOLE COMMUNITY PROVIDER  
21 HOSPITAL PAYMENTS.--A county that authorizes payment for services to a sole  
22 community provider hospital shall:

23 A. determine eligibility for benefits and determine an amount payable  
24 on each claim for services to indigent patients from sole community provider hospitals;

25 B. notify the sole community provider hospital of its decision on each  
request for payment while not actually reimbursing the hospital for the services that  
are reimbursed with federal funds under the state medicaid program;

C. confirm the amount of the sole community provider hospital  
payments authorized for each hospital for the past fiscal year by September 30 of the

1 current fiscal year based on a report prepared by the hospital using a format jointly  
2 prescribed by the counties and hospitals that provides aggregate data, including the  
3 number of indigent patients served and the total cost of uncompensated care provided  
4 by the hospital;

5 D. negotiate agreements with each sole community provider hospital  
6 providing services for county residents on the anticipated amount of the payments for  
7 the following fiscal year; provided that the agreements shall be in compliance with  
8 federal regulations regarding intergovernmental transfers and provider contributions  
9 and shall not include provisions for reimbursements to counties of matching and sole  
community provider fund allocations; and

10 E. provide the department by January 15 of each year with the  
11 budgeted amount of sole community provider  
12 hospital payments, by hospital, for the following fiscal  
13 year."  
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